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Serial No. 10/611,728
Response to Final Action of October 25, 2005

PATENT

REMARKS

Claims 11-23 and 29-43 are in the case.

The Finality of the October 25, 2005 Office Action Is Improper

The finality of the October 25, 2005 office action is premature because a new ground of rejection was issued in the Office Action that was based on the newly cited reference U.S. Patent 6,094,156 ("Henty"). Contrary to the assertion made in paragraph 5 of the Office Action the amendments made in Applicant's Reply of September 9, 2005 did not necessitate the new ground of rejection.

In Applicant's Reply of September 9, 2005, independent claims 11 and 20 were respectively amended to add the limitation that "one of the electronic apparatuses comprise a computer" and that "at least one of the subsystems comprise the computer." However, these limitations were taken directly from dependant claims 14 and 23. Thus, neither of these amendments created a claim having a scope that was not previously in the case and that was not previously searched/examined. In fact, it is believed that it was Applicant's arguments regarding the deficiencies of the Stavely reference, and its improper combination with Japanese Patent 60095624A ("Masakasu") that required the newly cited Henty reference. A review of the record supports this position.

Therefore, in consideration of the foregoing, the finality of the current Office Action is clearly improper and is not supported by MPEP § 706.07(a). Accordingly, Applicant respectfully requests pursuant to MPEP § 706.07(c) that the finality of current Office Action be withdrawn.

Claim Rejections Under 35 U.S.C. § 103

In paragraph 2 of the Office Action, claims 11-23, 30-38 and 40-43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,717,075 ("Stavely") in view of U.S. Patent 6,094,156 ("Henty").

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In rejecting claim 11, the Office Action cites Stavely as disclosing "a multi-sided input device for operating one or more electronic apparatuses (Figs. 1-3), the device comprising; at least three sets of input controls (Fig. 3), each set sufficient to operate at least one of the electronic apparatuses (Col. 2, line 62-col. 3, line 8); a plurality of user-accessible surfaces (Fig. 2A, references characters 210-214), the surfaces sized to contain substantially all of the input controls of a corresponding set (Col. 2, lines 63-col. 3, line 8)." The Office Action acknowledges that Stavely does not teach one of the electronic apparatuses comprising a computer. Henty is cited as disclosing the noted deficiency. The Office Action states that Henty "teaches a multi-sided input device for operating more than two electronic apparatuses wherein one of the electronic apparatuses comprises a computer (col.2, lines 2-7, Fig. 2B and col. 4, lines 51-67)." The Office Action then asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to have made computer input controls, as taught by Henty, in the device of Stavely to provide a full function remote control system. This combination is improper.

As noted in the Office Action, Stavely discloses a multi-sided input device for operating one or more electronic apparatuses. It is important to note that the body of the multi-sided input device of Stavely is a block-like rigid construction having the input controls located on the outer surfaces of the device. *See Stavely*, Figs. 1-3. While it is true that Henty discloses a remote control system for an entertainment system which may include a TV and a PC, Henty clearly teaches away from using the standard sized multi-sided input device that is disclosed in Stavely to achieve its inventive remote control, which is a hinged two-panel remote control having a full sized keyboard located on the inner surfaces of the folding panels. *See Henty*, Figs. 1-5. In discussing the need for its inventive two-panel remote control, Henty notes two problems that need to be overcome: (1) wireless keyboard control devices that are the same size as conventional keyboards are too large and cumbersome for use in the living room environment; and (2) reducing the size of the keyboard (i.e., the computer input controls) to fit on the surface of a conventional TV remote control results in the keys being too small. *See Henty*, col. 1, lines 37-62. However, the three-sided Stavely remote control devices is a size and shape that is standard for TV remote controls. *See Stavely*, Figs. 2A-3. Thus, according to Henty, modifying one of the input control sets on the outer surface of the Stavely remote control would result in the

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undesirable condition of the keys being too small. Therefore, contrary to the assertion made in the Office Action, Henty teaches away from modifying the remote control of Stavely to include input controls for a computer on one of its faces. Therefore, the combination of Stavely with Henty to reject claim 11 is improper and the rejection should be withdrawn.

With respect to claim 16, claim 16 requires that "the input device comprise a housing with an outer surface, and that the user-accessible surfaces be arranged to face outwardly along the outer surface of the housing." As such, claim 16 requires that the input controls for the computer be located on the outer surface of the housing of the remote control device. However, as discussed above, Henty requires that the keyboard be located on the inner surfaces of the hinged panels. Otherwise, according to Henty, the keyboard would be too small and the entire purpose of the Henty invention would be defeated. Thus, even if the combination of Stavely with Henty is believed to be generally permissible by the Examiner, the remote control device resulting from the combination would not have the input controls for the computer located on the outer surface of the housing, as is required by claim 16. To the contrary, the modified remote control device would be one of the devices shown in Figs. 2A-3 of Stavely having two hinged plates with a keyboard on the inner surfaces as is shown by Henty. Thus, the rejection of claim 16 is improper and must be withdrawn.

Regarding the rejection of claim 17, claim 17 requires that "the input device have a somewhat block-shaped form, and that the surfaces on which the sets of input controls are disposed comprising faces of the block-like form." Thus, claim 17 requires that the input device be a block-shape form with the input controls for the computer being located on a face of the block-like form. For the reasons discussed above with respect to claim 16, even if Stavely is combined with Henty, the rejection is improper because the modified remote control device would not read on claim 17. Thus, the rejection of claim 17 is improper and must be withdrawn.

Arguments similar to those made above with respect to the rejections of claims 16 and 17 can also be made for the rejection of claim 18. However, in order to avoid redundancy, the details of the argument against the rejection of claim 18 will be omitted with the understanding that the Examiner will understand the applicability of the argument to claim 18.

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Regarding claim 20, claim 20 is directed to "a multi-media system having a plurality of electronic subsystems for reading or processing information from corresponding information sources, the subsystems selected from the group consisting of a computer for associated applications or the internet, a television, a CD/DVD player, a stereo and a game console, the system further comprising a multi-sided input device for operating the plurality of subsystems, the input device comprising input controls grouped into sets sufficient to operate at least one corresponding electronic subsystem, the device further comprising a plurality of user activatable surfaces, the surfaces sized to contain substantially all of the input controls of a corresponding set; wherein at least one of the subsystems comprises the computer."

For the reasons discussed above with respect to claim 11, the rejection of claim 20 as being obvious over Stavely in view of Henty is also improper and should be withdrawn.

In paragraph 3 of the Office Action, claims 29 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stavely in view of Henty and further in view of Japanese Patent 60095624A ("Masakasu"). Claim 29 and 39 require that the input device "comprise two corresponding sets of input controls to control two different software applications." The Office Action acknowledges that Stavely and Henty fail to teach the input device comprising corresponding sets of input controls for two different software applications. Masakasu is cited as disclosing this deficiency. The Office Action further asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to have two input controls for two different software applications, as taught by Masakasu, in the combined device of Stavely and Henty. This rejection is improper.

As a threshold matter, it is believed that the combination of Stavely, Henty, and Masakasu to re-create the invention of claim 29 and 39 is clearly the result of impermissible hindsight. First, Masakasu discloses a dual-side keyboard for specific use with a computer. What would lead one to modify the Masakasu keyboard, which is specifically design for a computer, to have additional input controls for other electronic devices? Moreover, due to the thin shape of the Masakasu keyboard there is not even a sufficiently large third surface to locate a third set of input controls, as is required by claims 29 and 39. With respect to Stavely and

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Henty, what would lead one skilled in the art to modify these remote control devices to control two different software applications? As acknowledged by the Examiner, Stavely does not even teach using the subject remote control device with a computer, not to mention with two entirely different software applications. With respect to Henty, where would the input control set for the second software application be located? As discussed above, Henty teaches away from putting the keyboard on the normal sized remote control surfaces that form its other surfaces.

Finally, if the teachings of Stavely and Henty are combined as asserted in the Office Action, the resulting remote control device would be a multi-sided block-shaped device, as shown in Figs. 2A-3 of Stavely, formed by two hinged panels with a keyboard located on the interior surfaces, as taught by Henty. Thus, the only place a second keyboard could be placed to control a second software application is on one of the outer surfaces of the device. However, as discussed above, Henty specifically teaches away from such a location because the keys would be too small. Therefore, the combination of Stavely, Henty, and Masakasu is improper and it is requested that the rejection of claims 29 and 39 be withdrawn.

It is believed that all grounds of rejection and objection have been traversed, and that the rejections should be withdrawn, and the application allowed.

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